

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

v.

MICHAEL A. FELICIANO,

Defendant.

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ID# 89000046DI

Date Submitted: June 8, 2018

Date Decided: August 17, 2018

ORDER

Upon consideration of Defendant's *Pro Se* Second Motion for Postconviction Relief,¹ the Commissioner's Report and Recommendation that the Defendant's *Pro Se* Motion for Postconviction Relief be **DENIED**,² the record in this case, and Defendant having filed no objections to the Commissioner's Report and Recommendation, **IT APPEARS THAT:**

1. Defendant was indicted on February 4, 1989, on three counts of Unlawful Sexual Intercourse First Degree in violation of 11 *Del C.* § 775. According to the Affidavit of Probable Cause, the Defendant sexually assaulted a three-year-old girl and a seven-year-old girl at an unlicensed in-home daycare which was run by the Defendant's mother.

¹ D.I. 34.

² D.I. 38.

2. On September 5, 1989, Defendant pled guilty to one count of Unlawful Sexual Intercourse Second Degree in violation of 11 *Del. C.* § 774.³ Defendant was sentenced immediately to a mandatory sentence of life in prison.⁴ Defendant did not appeal his conviction to the Delaware Supreme Court.

3. On July 11, 2013, Defendant filed a *Pro Se* Motion for Postconviction Relief pursuant to Superior Criminal Rule 61 and counsel was appointed to assist in filing any amended motions. Defendant's counsel filed a Motion to Withdraw as counsel on August 4, 2014.

4. Defendant's Rule 61 Motion was referred to a Superior Court Commissioner pursuant to 10 *Del. C.* § 512(b) and Superior Court Criminal Rule 62 for proposed findings of facts and conclusions of law. On January 20, 2015, the Commissioner recommended that Defendant's Rule 61 Motion be denied and that Defendant's Rule 61 Counsel's Motion to Withdraw be granted. On April 30, 2015 the Commissioner's Report and Recommendation was affirmed.⁵ The Defendant filed a motion for reduction of sentence, which was denied on April 14, 2016.⁶

³ In June 1998, 11 *Del. C.* § 775 was deleted and replaced with 11 *Del. C.* § 773 Rape in the First Degree. 11 *Del. C.* § 774 was deleted and replaced with 11 *Del. C.* § 772 Rape in the Second Degree.

⁴ In 1989 parole eligible life sentences, for the purpose of determining parole eligibility only, the Parole Board is required to treat a life sentence as a fixed term of forty-five years. 11 *Del. C.* § 4346(c); *Evans v. State*, 872 A.2d 539, 554 (Del. 2005).

⁵ D.I. 29.

⁶ D.I. 33.

5. On March 3, 2018, the Defendant filed, *Pro Se*, his Second Motion for Postconviction Relief.⁷ The Motion was again referred to a Superior Court Commissioner pursuant to 10 *Del. C.* § 512(b).

6. The Commissioner has filed his Report and Recommendation that Defendant's Second Motion for Postconviction Relief be denied.⁸

7. **NOW THEREFORE**, after careful and *de novo* review of the record in this action, and for the reasons stated in the Commissioner's Report and Recommendation that Defendant's *Pro Se* Motion for Postconviction Relief be **DENIED**, and Defendant having filed no objections thereto, **IT IS HEREBY ORDERED** that the Commissioner's Report and Recommendation that Defendant's Second Motion for Postconviction Relief be denied is **AFFIRMED** and Defendant's Second Motion for Postconviction Relief is **DENIED**.



Jan R. Jurden, President Judge

Original to Prothonotary

cc: Commissioner Bradley V. Manning
Department of Justice
Michael A. Feliciano

⁷ D.I. 34.

⁸ D.I. 38.